

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

WASHINGTON MUTUAL BANK,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 05-11686-WGY
)	
DAN W. ADAMS, HEIDI K. ADAMS,)	
UNITED STATES OF AMERICA,)	
COMMONWEALTH OF)	
MASSACHUSETTS DEPARTMENT OF)	
REVENUE, DELTA FUNDING)	
CORPORATION and BENEFICIAL)	
MASSACHUSETTS INC.,)	
)	
Defendants.)	
)	

**WASHINGTON MUTUAL BANK'S MOTION FOR AN AWARD OF ATTORNEYS'
FEES AND COSTS AGAINST DEFENDANTS DAN W. ADAMS AND HEIDI K. ADAMS**

Plaintiff Washington Mutual Bank (“Washington Mutual”) hereby moves, pursuant to paragraph 7 of the Mortgage executed by the defendants Dan W. Adams and Heidi K. Adams (see Exhibit 3 attached to the Complaint) and Count III of the Complaint, for the entry of an order and final judgment awarding Washington Mutual the attorneys’ costs and fees that it incurred in protecting and reinstating its security interest against the Adams’ real property in Sandwich, Massachusetts.

In support of this Motion, Washington Mutual states the following, and relies upon the Affidavit of J. Patrick Kennedy, which is being filed herewith:

1. The Complaint in this action was filed on August 15, 2005.

2. Defendants Dan W. Adams and Heidi K. Adams have never filed an Answer to the Complaint.

3. On September 14, 2005, this Court entered Notices of Entry of Default against Defendants Dan W. Adams and Heidi K. Adams.

4. On January 27, 2006, this Court entered an Order reinstating the mortgage that was discharged as a result of the Adams' fraudulent actions.

5. This Court's Order of reinstatement was recorded at the Barnstable County Registry of Deeds, Registered Land Division on March 28, 2006.

6. The only issue that remains open in this case is the amount of attorneys' fees and costs that Dan W. Adams and Heidi K. Adams are required to reimburse Washington Mutual under paragraph 7 of the Mortgage. In Count III of the Complaint, Washington Mutual asserted a claim against Dan W. Adams and Heidi K. Adams for a judgment in the amount of its reasonable and necessary attorneys' fees and costs. The attorneys' fees and costs incurred by Washington Mutual amount to \$28,468.75. These fees and costs are reasonable in light of the work required to reinstate Washington Mutual's first mortgage position in the property, and were necessarily incurred to protect Washington Mutual's rights. The award of attorneys' fees and costs is supported by the attached Affidavit of J. Patrick Kennedy.

WHEREFORE, plaintiff Washington Mutual Bank respectfully requests that this Court allow this Motion and enter Judgment against defendants Dan W. Adams and Heidi K. Adams and in favor of Washington Mutual Bank on Count III of the Complaint in the amount of \$28,468.75.

WASHINGTON MUTUAL BANK,
By its Attorneys,

/s/ J. Patrick Kennedy
Donn A. Randall, BBO #631590
J. Patrick Kennedy, BBO #565778
Mary Ellen Manganelli, BBO #641658
Bulkley, Richardson and Gelinas, LLP
One Post Office Square, Suite 3700
Boston, MA 02109
(617) 368-2500

Dated: August 3, 2006

CERTIFICATE OF SERVICE

I, J. Patrick Kennedy, hereby certify that a true and correct copy of the foregoing document was served on all parties or counsel of record via this Court's CM/ECF system or, if not registered on this Court's CM/ECF system, then via first class mail, postage prepaid on this 3rd day of August, 2006.

/s/ J. Patrick Kennedy
J. Patrick Kennedy

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